

Publications

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Texas Regulatory Action Underscores Insurer Accountability for TPA Compliance

Key Takeaways:

- A Florida-based insurer was recently fined by the Texas Department of Insurance for failing to ensure the competent administration of its programs by working with an unlicensed TPA and failing to conduct statutorily required semiannual reviews and biennial on-site audits of the TPA.
- The insurer entered into a Consent Order with the Department and was fined \$250,000. The Consent Order also required the insurer to provide the Department with information about the insurer's other contracted TPAs, including their names, license numbers and contracts.
- This regulatory action underscores the importance for insurers to work with licensed TPAs and conduct statutorily required audits of TPAs to ensure their TPA business partners are licensed and compliant.

A Florida-based insurer recently entered into a Consent Order with the Texas Department of Insurance after regulators concluded it failed to properly oversee one of its third-party administrators (TPA). The action serves as an important reminder for insurers that Texas places affirmative oversight obligations on insurers, even when day-to-day administration is delegated to a TPA.

According to the Consent Order, one of the insurer's TPA business partners committed numerous violations of the Texas Insurance Code, including failing to maintain its qualifications to hold a Texas TPA Certificate of Authority, failing to report material changes to its qualifications and other required regulatory information, and failing to timely adjudicate and pay the insurer's claims.

The Consent Order also stated the insurer failed to conduct required semiannual reviews and biennial on-site audits of the TPA as required by Texas law.

Based on the above alleged violations of the Texas Insurance Code by the TPA, the Department alleged the insurer violated Tex. Ins. Code § 4151.1042(b), by failing to

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ensure the competent administration of its programs through its contracted TPA.

This enforcement action reinforces that insurers must confirm their TPAs are properly licensed and must conduct the statutorily required audits and reviews. Regulatory responsibility does not end with delegation and insurers should ensure their oversight processes are active, documented and aligned with governing law.

For More Information on Our TPA Team

Polsinelli's TPA team provides comprehensive services to TPAs, including licensing, regulatory and compliance guidance, assistance with audits, government examinations and investigations and drafting administrative services agreements, among other advisory support. Our team includes former state insurance regulators and former in-house counsel for TPAs, providing clients with significant experience navigating complex regulatory challenges efficiently. Our TPA team also includes attorneys recognized by *Thomson Reuters* and *Best Lawyers in America*, reflecting the depth and quality of our regulatory and compliance capabilities.

By leveraging its extensive experience representing TPAs, our TPA team helps clients avoid the learning curve and related cost implications that can be experienced by working with companies or attorneys less familiar with the regulatory and compliance needs of TPAs.

For questions regarding this e-alert or other TPA regulatory and compliance matters, please contact one of the authors, a member of Polsinelli's TPA team or your Polsinelli attorney.